



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

Northwest Regional Office • 3190 160th Avenue SE • Bellevue, Washington 98008-5452 • (425) 649-7000

May 22, 2009

**CERTIFIED MAIL**

**7005 1820 0000 6708 4477**

Cemex  
6300 Glenwood Avenue  
Everett, WA 98203

Dear Sir or Madam:

**RE: Coastal Zone Consistency for Corps Reference No. NWS-2008-825-NO  
U.S. Army Corps Public Notice for Individual Section 404 Permit, Cemex  
Delta Site Barge Off-Load Facility Project, Snohomish River, Everett,  
Snohomish County, Washington**

On April 29, 2009, Cemex submitted a Certification of Consistency with the Washington State Coastal Zone Management Program (CZMP). Pursuant to Section 307(c)(3) of the Coastal Zone Management Act of 1972 as amended, Ecology concurs with Cemex's determination that the proposed work is consistent with Washington's CZMP, provided that the following condition is met:

1. Cemex is proposing to relocate portions of its operations to the former Weyerhaeuser Craft Mill site in Everett, Washington (referred to as the Delta site). While Cemex currently has an air quality permit for its existing operations it does not have a permit for the Delta site. The Clean Air Act (CAA) is one of the enforceable policies of Washington's CZMP. Therefore, in order to be consistent with Washington's CZMP Cemex shall obtain an Air Quality Permit from the Puget Sound Clean Air Agency for the Delta site.

Pursuant to 15 C.F.R. § 930.4, if the condition above is not met then all parties shall treat this conditional concurrence letter as an objection.

You have the opportunity to appeal this conditional concurrence to the Secretary of Commerce as outlined below:

1. Pursuant to 15 C.F.R. § 930.63(e), within 30 days from receipt of this letter, you may request that the Secretary of Commerce override this conditional concurrence. In order to grant an override request, the Secretary must find that the activity is consistent with the objectives or purposes of the Coastal Zone Management Act, or is necessary in the interest of national security. A copy of the request and supporting information must be sent to the Ecology's Shorelines and Environmental Assistance (SEA) program and the federal



permitting or licensing agency. The Secretary may collect fees from you for administering and processing your request.

2. Pursuant to 15 C.F.R. § 930.125, the appellant shall send the Notice of appeal to the Secretary, Herbert C. Hoover Building, 14th Street and Constitution Avenue, NW., Washington, DC 20230; a copy of the notice of appeal to the objecting State agency; and to the Assistant General Counsel for Ocean Services (GCOS), 1305 East West Highway, Room 6111 SSMC 4, Silver Spring, Maryland 20910.

You also have the right to appeal this decision to the Pollution Control Hearings Board. To appeal this you must:

- File your appeal with the Pollution Control Hearings Board within 30 days of the “date of receipt” of this document. Filing means actual receipt by the Board during regular office hours.
- Serve your appeal on the Department of Ecology within 30 days of the “date of receipt” of this document. Service may be accomplished by any of the procedures identified in WAC 371-08-305(10). “Date of receipt” is defined at RCW 43.21B.001(2).

Be sure to do the following:

- Include a copy of this document that you are appealing with your Notice of Appeal.
- Serve and file your appeal in paper form; electronic copies are not accepted.

**1. To file your appeal with the Pollution Control Hearings Board**

Mail appeal to:

The Pollution Control Hearings Board  
PO Box 40903  
Olympia, WA 98504-0903

OR

Deliver your appeal in person to:

The Pollution Control Hearings Board  
4224 – 6th Ave SE Rowe Six, Bldg 2  
Lacey, WA 98503

**2. To serve your appeal on the Department of Ecology**

Mail appeal to:

The Department of Ecology  
Appeals Coordinator  
P.O. Box 47608  
Olympia, WA 98504-7608

OR

Deliver your appeal in person to:

The Department of Ecology  
Appeals Coordinator  
300 Desmond Dr SE  
Lacey, WA 98503

**3. And send a copy of your appeal to:**

Department of Ecology  
Northwest Regional Office  
Attn: Rebekah Padgett  
3190 160<sup>th</sup> Avenue SE  
Bellevue, WA 98008

For additional information visit the Environmental Hearings Office Website:  
<http://www.eho.wa.gov>

To find laws and agency rules visit the Washington State Legislature Website:  
<http://www1.leg.wa.gov/CodeReviser>

Your appeal alone will not stay the effectiveness of this Order. Stay requests must be submitted in accordance with RCW 43.21B.320. These procedures are consistent with Ch. 43.21B RCW.

If you have any questions regarding Ecology's consistency determination please contact Rebekah Padgett at (425) 649-7129.

Sincerely,



Geoff Tallent, Section Manager  
Northwest Regional Office  
Shorelands and Environmental Assistance Program

ES:rrp:cja

cc: Jonathan Smith, U.S. Army Corps of Engineers  
Wendell Johnson, Reid Middleton, Inc.  
Laura Arber, Washington Department of Fish and Wildlife  
Dan Tonnes, NOAA Fisheries  
Ron Malecki, US Fish and Wildlife Service  
Brendan Werden, Washington Department of Natural Resources  
Steve Van Slyke, Puget Sound Clean Air Agency

e-cc: David Pater – NWRO  
Barbara Nightingale – NWRO  
Paul Anderson – NWRO  
Jerry Shervey – NWRO  
David South – NWRO  
Loree' Randall – HQ  
Raman Iyer – NWRO  
Clay Gustaves, Williams Northwest Pipeline Clay.Gustaves@Williams.com  
[ecyrefedpermits@ecy.wa.gov](mailto:ecyrefedpermits@ecy.wa.gov)

